

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

FRANKIE POWELL; IDA POWELL

PLAINTIFFS

V.

CAUSE NO. 3:15-CV-776-CWR-FKB

**MURRAY TURNER; KL EXPRESS, LLC;
KENNETH LESURE, *Individually and
doing business as* KL Express**

DEFENDANTS

ORDER

Before the Court is the plaintiffs' motion to remand. Docket No. 11. They contend that this Court lacks subject matter jurisdiction because they and defendant KL Express, LLC are citizens of the same state.

The plaintiffs' motion is predicated upon the recent actions of defendant Kenneth Lesure. In 2014, Lesure formed KL Express as a Tennessee LLC. In November 2015, he formed a new LLC in Mississippi, again under the name KL Express. The plaintiffs argue that this new LLC is a Mississippi corporation which defeats complete diversity.

The plaintiffs are incorrect. The formation of a LLC in Mississippi does not automatically make the LLC a citizen of Mississippi. Rather, "like limited partnerships and other unincorporated associations or entities, the citizenship of a LLC is determined by the citizenship of all of its *members*." *Harvey v. Grey Wolf Drilling Co.*, 542 F.3d 1077, 1080 (5th Cir. 2008) (citations omitted and emphasis added).

Both iterations of KL Express – the original Tennessee version and the new Mississippi entity – have only one member, Lesure. Lesure is a resident of Tennessee. As a result, both iterations of KL Express are citizens of Tennessee.

It is not clear why Lesure formed the new Mississippi LLC in November 2015. Nor is it clear why (according to public records) he dissolved it in January 2016. But that is neither here nor there. The bottom line is that this Court has subject matter jurisdiction because all of the plaintiffs are citizens of Mississippi and all of the defendants are citizens of other states.¹ *See McLaughlin v. Mississippi Power Co.*, 376 F.3d 344, 353 (5th Cir. 2004) (“The concept of complete diversity requires that all persons on one side of the controversy be citizens of different states than all persons on the other side.”).

The motion is denied. Within 10 days, the parties shall contact the chambers of the Magistrate Judge to reschedule the Case Management Conference.

SO ORDERED, this the 8th day of February, 2016.

s/ Carlton W. Reeves
UNITED STATES DISTRICT JUDGE

¹ The parties agree that the amount in controversy exceeds \$75,000, and that defendant Murray Turner is a resident of Arkansas.